

FACT SHEET

DRAFT FINAL REGULATION ON SECTION 112(g) OF THE CLEAN AIR ACT

TODAY'S ACTION...

- ◆ The Environmental Protection Agency (EPA) is today issuing a draft final rule for public comment on section 112(g) of the Clean Air Act Amendments of 1990.

WHAT IS SECTION 112(g)?

- ◆ Under the Clean Air Act Amendments of 1990, EPA is required to regulate large or "major" industrial facilities that emit one or more of 189 listed hazardous air pollutants (air toxics). Air toxics are those pollutants that are known or suspected of causing cancer or other serious health effects, such as developmental effects or birth defects. On July 16, 1992, EPA published a list of industrial source categories that emit one or more of these hazardous air pollutants. For listed industrial categories of "major" sources (those that have the potential to emit 10 tons/year or more of a listed pollutant or 25 tons/year or more of a combination of pollutants), EPA is required to develop standards for these sources that will require the application of stringent controls, known as maximum achievable control technology (MACT).
- ◆ The section 112(g) provision is designed to ensure that emissions of toxic air pollutants do not increase if a facility is constructed or reconstructed before EPA issues a MACT or air toxics regulation for that particular category of sources or facilities.
- ◆ In effect, the 112(g) provision is a transitional measure to ensure that facilities adequately protect the public from toxic air pollutants until EPA issues a MACT standard that applies to the facility in question.

BACKGROUND

- ◆ EPA proposed the 112(g) regulation in March 1994. EPA has delayed issuing the final 112(g) regulation in order to work out a number of complex issues, including defining construction and reconstruction of major sources, and developing the best way to integrate the program with existing state programs.
- ◆ In an effort to address these and other issues, EPA has held extensive meetings and discussions with stakeholders affected by the rule including those in industry, states, and environmental groups. Based on these discussions, EPA has redrafted parts of the proposed 112(g) regulation and believes that the final rule will provide strong environmental protection, while providing flexibility to sources or facilities subject to 112(g).
- ◆ EPA intends to issue the final regulation for 112(g) by August 31, 1996.

HOW HAS THE 112(g) REGULATION CHANGED?

- ◆ EPA's draft final rule substantially streamlines the process it proposed in March 1994 by limiting the 112(g) requirements to the construction of new facilities, and the reconstruction (rebuilding) of large sources of toxic air emissions at existing facilities.
- ◆ As with the March 1994 proposal, newly constructed facilities continue to be subject to 112(g) requirements. However, the regulation no longer contains the complex requirements for modifications to existing sources or facilities. An existing facility would be subject to 112(g) requirements, for example, if it added or rebuilt a large production line or process that emitted toxic air pollutants above the "major" source threshold (e.g., above 10 tons annually for any single listed pollutant, or above 25 tons annually for a combination of listed pollutants).
- ◆ Section 112(g) is primarily a transitional provision designed to operate until EPA issues air toxics or MACT standards. EPA anticipates that most MACT standards will be in place by the year 2000. Therefore, EPA believes that section 112(g) will yield the most public health and environmental benefits by requiring stringent controls on newly constructed or rebuilt large sources of toxic air pollutants (where uncontrolled emissions are likely to be the highest), where an applicable air toxics regulation has yet to be issued.

WHAT ARE THE MAIN COMPONENTS OF THE DRAFT FINAL RULE?

- ◆ Newly constructed facilities or reconstructed units or sources at existing facilities would be subject to 112(g) requirements if they have the potential to emit hazardous air pollutants (air toxics) in "major" amounts (10 tons or more of an individual pollutant or 25 tons or more of a combination of pollutants). "Reconstruction" is defined as a change that costs 50 percent of the cost of constructing a new unit or source like the one being rebuilt.
- ◆ Sources or facilities subject to 112(g) would be subject to stringent air pollution control requirements, referred to as "new source MACT." Under the Clean Air Act, new source MACT control is required to be no less stringent than the best controlled similar source or facility.
- ◆ EPA anticipates that the new source MACT requirements will be equally or more stringent than the requirements in the air toxics or MACT standard that EPA will later issue for the industrial source category in question. However, should the new source MACT requirements prove to be less stringent than the air toxics regulation that EPA later issues, the source or facility would be provided additional time to comply with the air toxics or MACT standard.
- ◆ EPA's draft final rule provides a transition period for states that have a preconstruction review process already in place to make adjustments in their programs to comply with 112(g) requirements. This transition period would prevent project delays for sources that were about to commence construction at the time this rule is issued. EPA intends to

work closely with states on other transitional issues.

FOR MORE INFORMATION...

- ◆ With a computer and a modem this rule can be downloaded from the Clean Air Act Amendments bulletin board under "Recently Signed Rules" on EPA's electronic Technology Transfer Network by calling (919) 541-5742. For further information about how to access the board, call (919) 541-5384. For further information about the draft final rule, contact Kathy Kaufman (919-541-0102) or Gerri Pomerantz (919-541-2317) of EPA's Office of Air Quality Planning and Standards.